

§ 531.215

5 CFR Ch. I (1–1–08 Edition)

termination of the temporary promotion, pay is set as provided in § 531.215(c). If a temporary promotion is made permanent immediately after the temporary promotion ends, the agency may not return the employee to the lower grade; instead, the agency must convert the employee's temporary promotion to a permanent promotion without a change in pay.

(f) *Corrections of demotions.* The promotion rule in this section may not be used in correcting an erroneous demotion. (See § 531.215(e).)

[70 FR 31291, May 31, 2005, as amended at 70 FR 74995, Dec. 19, 2005]

§ 531.215 Setting pay upon demotion.

(a) *General.* Except as otherwise provided in this section, an employee who is demoted is entitled to the minimum payable rate of basic pay for the lower grade unless the agency sets the employee's pay at a higher rate under—

(1) The grade and pay retention rules in 5 CFR part 536, as applicable; or

(2) The maximum payable rate rule in § 531.221, as applicable.

(b) *Geographic conversion.* If the employee's official worksite after demotion is in a different geographic location where different pay schedules apply, the agency must first convert the employee's payable rate of pay as required by § 531.205 before setting the demoted employee's pay using the grade and pay retention rules in 5 CFR part 536 or the maximum payable rate rule in § 531.221.

(c) *Expiration or termination of a temporary promotion.* (1) When an employee is returned to the lower grade from which promoted on expiration or termination of a temporary promotion, the agency must set the employee's payable rate of basic pay in the lower grade as if he or she had not been temporarily promoted, unless the agency sets pay at a higher rate under the maximum payable rate rule in § 531.221. As provided in subpart D of this part, time during the temporary promotion may be creditable service towards GS within-grade increases in the lower grade.

(2) If a temporary promotion is made permanent immediately after the temporary promotion ends, the agency

may not return the employee to the lower grade. (See § 531.214(e).)

(d) *Demotion upon failure to complete a supervisory probationary period.* When an employee promoted to a supervisory or managerial position does not satisfactorily complete a probationary period established under 5 U.S.C. 3321(a)(2) and is returned to a position at the lower grade held before the promotion, the agency must set the employee's payable rate of basic pay upon return to the lower grade as if the employee had not been promoted to the supervisory or managerial position, unless the agency sets pay at a higher rate under the maximum payable rate rule in § 531.221. As provided in subpart D of this part, time served following the promotion may be creditable service towards GS within-grade increases in the lower grade. However, nothing in this paragraph prohibits an agency from taking action against an employee covered by this paragraph for cause unrelated to supervisory or managerial performance and setting pay in accordance with such action.

(e) *Correcting an erroneous demotion.* When a demotion is determined to be erroneous and is canceled, the agency must set the employee's rate of basic pay as if the employee had not been demoted. The action is a correction of the original demotion action and may not be treated as a promotion under § 531.214. For example, when a demotion based on a reclassification of the employee's position is found to be erroneous and is corrected retroactively under 5 CFR 511.703, the corrective action is cancellation of the original demotion.

§ 531.216 Setting pay when an employee moves from a Department of Defense or Coast Guard non-appropriated fund instrumentality.

(a) *General.* This section governs the setting of pay for an employee who moves to a GS position from a position in a Department of Defense or Coast Guard nonappropriated fund instrumentality (NAFI) (as described in 5 U.S.C. 2105(c)) without a break in service of more than 3 days and without a change in the employing agency. If an employee moves from an NAFI position to a GS position with a break of more